

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Emergency Declaratory and)	WC Docket No. 02-202
Other Relief)	
)	

COMMENTS OF IDT CORPORATION

IDT Corporation (“IDT”) submits its comments solely in response to the comments filed by the American Public Communications Counsel (“APCC”)¹ in the above-docketed proceeding. The APCC Comments fail to state a position on the petition submitted by Verizon. Instead, under the guise of the issues raised by Verizon, the APCC seeks a radical alteration of the Commission’s call blocking and payphone compensation rules and regulations. It would be contrary to the Commission’s notice requirements for the Commission to address the issues raised by the APCC in the present proceeding. Therefore, the Commission should decline to even consider the requests made by the APCC. However, in the event the Commission chooses to address the APCC’s concerns, it should deny all requests raised by the APCC for the reasons stated below.

¹ Comments of the American Public Communications Council, In the Matter of Petition for Emergency Declaratory and Other Relief, WC Docket No. 02-202 (August 15, 2002)(“APCC Comments”).

I. THE APCC COMMENTS FAIL TO STATE A POSITION ON VERIZON'S PETITION

As noted in the Commission's Public Notice,² Verizon has asked the Commission to: (1) allow carriers to revise tariffs to ensure against nonpayment; (2) support independent local exchange carriers' efforts in the bankruptcy courts to obtain adequate assurance of payment for service rendered to customers in bankruptcy; (3) ensure that purchasers of bankrupt carriers' existing service arrangements comply with the cure requirements of bankruptcy law; and (4) direct competitive local exchange carriers to provide the information necessary to coordinate carrier-to-carrier transfers." The only comments the APCC submits on these issues are found in footnotes, where it states, "APCC takes no position regarding whether the Commission should approve Verizon's proposed tariff"³ and "The Commission should therefore be cautious in deciding whether to grant ILECs such as Verizon the requested relief."⁴ These comments clearly demonstrate that the APCC offers no arguments addressing the issues raised by Verizon. Instead, Verizon's Petition is being used by APCC solely as a springboard for APCC to attack the Commission's rules and regulations on call blocking and per-call compensation. The Commission should reject this underhanded effort completely and decline to even consider the requests made by the APCC.

² Public Notice, Wireline Competition Bureau Seeks Comment on Verizon Petition for Emergency Declaratory and Other Relief, DA 02-1859; WC Docket No. 02-202 (Released July 31, 2002)("Verizon Petition").

³ APCC Comments at p. 5, n. 8 and p. 7, n. 9.

⁴ *Id.* at p. 1, n. 2.

II. THE COMMISSION SHOULD DENY APCC'S ATTEMPT TO REVISE THE COMMISSION'S CALL BLOCKING AND PAYPHONE COMPENSATION RULES AND REGULATIONS

By requesting that “the Commission allow independent PSPs to require customers of IXC’s that are experiencing financial difficulties to deposit coins in order to make a dial-around call,”⁵ the APCC is effectively asking the Commission to block toll free calls and eliminate the ability of consumers to freely use toll free services and other services that rely on toll-free numbers, such as prepaid calling cards, from payphones. Implementation of such a request would cause irrevocable damage to the prepaid calling card industry and harm many of our nation’s low-income consumers who rely on phone cards. Under APCC’s proposal, a consumer dialing a toll free number to access a prepaid phone card at a payphone would have to insert coins if her prepaid calling card’s toll free number was associated with an IXC that is “experiencing financial difficulties.” If permitted by the Commission, this will lead to massive consumer confusion, as affected consumers will not understand why their toll free prepaid phone cards will not work from a payphone unless coins are deposited. Furthermore, APCC fails to address how the prepaid calling card industry, which has hundreds of millions of calling cards in the stream of commerce will explain to its customers that its calling cards no longer work from payphones unless coins are deposited. Not coincidentally, APCC’s request will lead to higher direct-dial payphone usage, which many prepaid calling card users seek to avoid because of outrageous payphone rates.

In addition to the chaos the APCC’s request would create in the marketplace, the request is contrary to 47 U.S.C. § 226(c)(1)(B), which provides that a telephone "aggregator" (which includes entities such as a PSPs) must "ensure that each of its

telephones...allows the consumer to use '800' ... numbers to obtain access to the provider of operator services desired by the consumer."⁶ This provision is implemented by the Commission's regulations at 47 C.F.R. § 64.704(a), "Call blocking prohibited." The proscription has the effect of also precluding PSPs from blocking calls to subscriber 800 numbers.⁷ By denying consumers the right to complete a toll free call unless coins are deposited, PSPs will effectively block these numbers, thus violating the aforementioned rules and regulations. If the Commission intends to revise its call blocking and per-call compensation rules and regulations, it would be contrary to the Commission's obligation to provide notice before revising its rules and regulations to implement any such changes in this proceeding, wherein no notice of the APCC's radical changes has been provided.

In its Petition, the APCC states, "In the event that an IXC refuses to comply with a PSP's request for a payment guarantee, PSPs should be permitted to charge the IXC's customers for dial-around calls."⁸ Here, the APCC fails to acknowledge that in many cases, the IXC's "customer," for the purpose of payphone compensation, is not the end user dialing a toll free number, but rather an IXC reseller that provides the end user service associated with the toll free number. Until recently, per-call compensation incurred by an IXC reseller was remitted by that reseller to the PSP. However, as a result of the endless lobbying of the APCC, the Commission effectively prevented switch-based resellers from willfully remitting payphone compensation directly to PSPs.⁹ The APCC foolishly decided that it would be wiser to place per-call compensation in the hands of the

⁵ *Id.* at pp. 8-9, n.10.

⁶ 47 U.S.C. § 226(c)(1)(B).

⁷ See, Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, Second Report and Order, CC Docket No. 91-35, 7 FCC Rcd 3251 (1992).

⁸ APCC Comments at p. 6.

few large IXCs, rather than spread the risk of non-payment among the IXCs many customers. Now that the APCC (or, more accurately, its members) may suffer if a large IXC foregoes its per-call compensation obligations due to bankruptcy, the APCC is looking to harm consumers and eviscerate an entire industry, rather than work with members of the dial-around industry to fix the foolish, inefficient system the APCC helped create.

Further highlighting the outrageousness of the APCC's request is that there is a simple solution that addresses much of the dilemma the APCC has created for the payphone industry: PSPs should contact IXC resellers to negotiate direct per-call compensation agreements. Indeed, the Commission has encouraged direct relationships between IXC resellers and PSPs.¹⁰ Yet at no time since the Commission's most recent pronouncement has the APCC contacted members of the IXC reseller community to consider this preferred alternative. Indeed, the PSP industry has effectively refused to enter into such agreements. The APCC states, "PSPs need some means of recovering the cost of dial-around calls in the event that an IXC signals that it has no intention to pay dial-around compensation."¹¹ If the APCC and the PSP industry are truly interested in securing compensation for dial-around calls initiated through IXC providers' reseller customers, the "means of recovery" are not to permit PSPs to block toll free or otherwise

⁹ See, In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act; RBOC/GTE/SNET Payphone Coalition for Clarification, Second Order on Reconsideration, CC Docket No. 96-128; NSD File No. L-99-34, 16 FCC Rcd 8098 (March 28, 2001).

¹⁰ ("[W]e believe that ideally the carrier ultimately responsible for the payment of compensation should make payments directly to the PSP. *** The Commission therefore supports direct relationships between SBRs and PSPs for tracking and payment of payphone compensation."), In the Matter of The Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996; RBOC/GTE/SNET Payphone Coalition Petition for Clarification; Bulletins Petition for Clarification; WorldCom, Inc. Petition for Declaratory Ruling and Petition for Reconsideration; AT&T Petition for Clarification and/or Reconsideration; Global Crossing Telecommunications, Inc. Petition for Reconsideration and Clarification, Third Order on Reconsideration and Order on Clarification, CC Docket No. 96-128; NSD File No. L-99-34; FCC 01-344 (November 21, 2001) at ¶¶ 11 and 12.

compensable calls. Instead, the APCC can contact members of the reseller industry and negotiate agreements for direct compensation, thereby bypassing the IXC and establishing a direct relationship, as the Commission intended. The Commission need not – and should not – eliminate or revise its rules and regulations that prevent PSPs’ from blocking toll free calls.

CONCLUSION

Because the issues raised by APCC are not before the Commission in the Verizon Petition that is the basis of this docket, the Commission should decline to address the issues raised by the APCC. To any extent the Commission decides to consider the APCC’s comments, it should deny the APCC’s proposed radical alteration of the Commission’s call blocking and payphone compensation rules and regulations for the reasons stated herein.

Respectfully submitted,

/s/ Carl Wolf Billek
Carl Wolf Billek
IDT Corporation
520 Broad Street
Newark, New Jersey 07102-3111
(973) 438-1000

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¹¹ APCC Comments at p. 6.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the Reply Comments was served on this 22nd day of August 2002 by electronic delivery and/or first-class mail to the persons listed below.

By : /s/ Carl Wolf Billek
Carl Wolf Billek

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
TW-A325
Washington, DC 20554
(filed through ECFS)

Qualex International
Portals II
445 12th Street SW
Room CY-B402
Washington, DC 20554

David Cosson
Donald Elardo
Kraskin, Lesse & Cosson, LLP
2120 L. Street NW, Suite 520
Washington, DC 20037
Counsel for the Independent Alliance

Praveen Goyal
Jason Oxman
Covad Communications Company
600 14th Street NW
Washington, DC 20005
Frederic G. Williamson

Fred Williamson & Associates, Inc.
2921 East 91st Street, Ste. 200
Tulsa, OK 74137

Marc C. Rosenblum
Lawrence J. Lafaro
Peter H. Jacoby
AT&T Corp.
295 N. Maple Avenue
Room 1131M1
Basking Ridge, NJ 07920

L. Marie Guillory
National Telecommunications
Cooperative Association
4121 Wilson Boulevard, 10th Fl.
Arlington, VA 22203

Leonard J. Kennedy
Joel M. Margolis
Nextel Communications
2001 Edmund Hailey Drive
Reston, VA 20191

Christopher M. Heimann
Gary L. Phillips
Paul K. Mancini
SBC Communications, Inc.
1401 Eye Street NW, Ste. 400
Washington, DC 20005

Stephen L. Earnest
BellSouth Telecommunications
675 West Peachtree Street NE
Suite 4300
Atlanta, GA 30375

Jonathan D. Lee
The Competitive Telecommunications
Association
1900 M Street NW, Ste. 800
Washington, DC 20036

Thomas Jones
Christie Shewmann
Willkie Farr & Gallagher
Three Lafayette Center
1155 21st St. NW
Washington, DC 20036
Counsel for Time Warner Telecom

Robert F. Aldrich
Robert N. Felgar
Dickstein Shapiro Morin & Oshinsky, LLP
2101 L Street NW
Washington, DC 20037
*Counsel for American Public
Communications Council*

Richard M. Rindler
Kathleen L. Greenan
Harry N. Malone
Swidler Berlin Shereff Friedman LLP
3000 K Street NW, Ste. 300
Washington, DC 20007
Counsel for CTC Communications Corp., DSL.net Communications LLC, Focal Communications Corp., Level 3 Communications LLC, Pac-West Telecom, Inc., US LEC Corp.

Lawrence E. Sarjeant
Indra Sehdev Chalk
Michael T. McMenamin
Robin E. Tuttle
United States Telecom Association
1401 H Street NW, Ste. 600
Washington, DC 20005

Jonathan Askin
Teresa K. Gaugler
Association for Local
Telecommunications Services
888 17th Street NW, Ste. 900
Washington, DC 20005

R. Michael Senkowski
Robert J. Butler
John P. Papandrea
Wiley Rein & Fielding LLP
1776 K. Street NW
Washington, DC 20006
Counsel for the Mid Size Carrier Group

Glen S. Richards
Tony Lin
Shaw Pittman LLP
2300 N Street NW
Washington, DC 20037
Counsel for National ALEC Association/Prepaid Communications Association

Michael B. Fingerhut
Richard Juhnke
Sprint Corporation
401 9th Street NW, Ste. 400
Washington, DC 20004

Alan Buzacott
Henry G. Hultquist
WorldCom, Inc.
1133 19th Street NW
Washington, DC 20036

Paul C. Bescuzzi
Janet Fitzpatrick Moran
Patton Boggs LLP
2550 M Street NW
Washington, DC 20037
Counsel for Evercom Systems, Inc.

Michael J. Shortley, III
D. Anthony Mastando
Global Crossing North America, Inc.
1080 Pittsford –Victor Road
Pittsford, NY 14534

Lawrence G. Malone
Elizabeth H. Liebshutz
Brian Ossias
New York State
Department of Public Service
Three Empire State Plaza
Albany, NY 12223

Russell I. Zuckerman
Richard E. Heatter
Marilyn H. Ash
Mpower Communications Corp
175 Sully's Trail – Ste. 300
Pittsford, NY 14534

Janice Myles
Federal Communications Commission
445 12th Street SW
Washington, DC 20554
(Via Email)

Richard A. Askoff, Counsel
NATIONAL EXCHANGE CARRIER
ASSOCIATION, INC.
80 South Jefferson Road
Whippany, New Jersey 07981